



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-7863-2021
Date of decision: 06.08.2025**

A L GUPTA SINCE DECEASED THROUGH HIS LEGAL HEIRS

.....Petitioner(s)

VERSUS

STATE BANK OF INDIA AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. B.S. Patwalia, Advocate and
Mr. Gaurav Jagota, Advocate
for the petitioner(s).

Mr. Akshay Jain, Advocate
for respondents-SBI.

VINOD S. BHARDWAJ, J. (Oral)

Seeking directions to the respondents to consider the case of the petitioner for promotion to Scale V w.e.f. June, 1995 and to grant all further consequential promotions to which he would have been entitled to, and in light of the decree of the trial Court dated 18.04.2014, the instant writ petition has been filed.

2. Learned Counsel for the petitioner(s) contends that the petitioner (since deceased) was initially appointed as a 'Clerk' with the



respondent-Bank in the year 1967 and he was working on the post of AGM at the time when the order of punishment of dismissal from service was passed on 24.01.2000. The subsequent appeal as well as the revision were also dismissed by the Appellate as well as the Revisional Authority.

3. Aggrieved of the same, the petitioner preferred Civil Suit No. 293 of 2004 before the Civil Judge (Junior Division), Chandigarh. The said suit for declaration and mandatory injunction was decreed by the Civil Judge (Junior Division), Chandigarh and the order dated 24.01.2000 passed by the Chief General Manager imposing penalty of dismissal from service, order dated 05.05.2001 passed by the Appellate Committee and the order dated 16.12.2002 passed by the review Committee were held liable to be set aside. The enquiry proceedings and all other orders were set aside. It was further decreed that the petitioner is entitled to all benefits including promotion, if so entitled as per law and as if no proceedings had ever been found against him as well as all consequential benefits, sundry and other benefits alongwith interest @ 9% per annum from the date of dismissal from service till realization of the amount.

4. The Civil Appeal No. 210 of 24.05.2014 preferred against the said judgment and decree by the respondent-Bank was dismissed by the Additional District Judge, Chandigarh vide judgment dated 31.08.2016 and the Regular Second Appeal No. 1460 of 2017 was also dismissed by the High Court vide order dated 20.04.2017. Hence, the said judgment and decree became final.

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5. The petitioner thereafter filed Execution Application No. 1190 of 2016 before the Executing Court wherein the petitioner raised 07 point claims regarding arrears of salary, arrears of leave encashment, arrears of pension, Bank's Provident Fund Contribution, interest on delayed payments, gratuity and arrears of notional promotion based on an averment that in case the decree holder (petitioner herein) had been notionally promoted to Scale 6, he would have been entitled to the said amount in view of the judgment passed by the Civil Court.

6. Undisputedly, on consideration of all the said claims of the petitioner(s), the Executing Court dismissed the aforesaid claim on the ground that the same was hypothetical and unwarranted. It was specifically held by the Executing Court that the petitioner-decree holder is not entitled to any arrears on account of an assumed notional promotion since the same was not a matter of right. The arrears calculated and demanded on account of assumed promotion upto the scale of officer Grade-VI was imaginary and hence, the said calculations were rejected and disregarded. In so far as the claim regarding payment of reimbursement from medical bills, LFC and commutation of pension etc. are concerned, the Executing Court specifically recorded that the decree holder was free to place on record any document to show that medical bills were pending with the respondent-Bank, however, he did not do the needful. The operative part of the order dated 24.07.2019 passed by the Executing Court dismissing the execution petition as having been fully satisfied are extracted as under:-



“After having heard the rival contentions put forward by learned Counsel for the parties, I am of the considered view that as per Annexure A1 submitted by the Ld. Counsel for the DH, the first 7 points regarding arrears of salary, arrears of leave encashment, arrears of pension, Bank's PF contribution, interest on delayed payment, gratuity and arrears of notional promotion are based on the averment that in case the DH had been notionally promoted to the scale VI he would have been entitled to the said amount in view of the Judgment passed by the Ld. Predecessor of the court. Perusal of the file reveals that in the said Judgment it was ordered that DH is entitled to all the benefits including promotion if so entitled according to law. As per the record of the bank, DH was considered for promotion every year from 1994 to 1998 but was not found suitable for promotion, therefore, the claim by DH is hypothetical and totally unwarranted. Moreover, DH was drawing the basic salary of Rs.10,450/-in August, 1997 as SMGS IV. He was at the top of his scale in August, 1997. As per Annexure A1 DH is not entitled for any arrears on account of notional promotion since, notional promotion is not a matter of right. The DH has calculated the arrears of promotion up to the scale of Officer Grader VI imaginary. Therefore, the calculations by the DH upto the scale of Officer Grade-VI cannot be considered. As far as the question regarding payment of reimbursement from medical bills, LFC and commutation of pension is concerned, firstly the DH has failed to place on record any document to show that any medical bills were pending with the JD Bank. Similarly, on hypothetical basis, arrears on account of LFC cannot be granted by the JD Bank especially when there is no proof with effect



to the same and as far as the commutation of pension of DH is concerned, the same has already been paid by the bank in form of arrears of pension and has been admitted by the JD in his calculation sheet.”

7. Aggrieved of the same, the instant writ petition has been filed by the Legal heirs, in the year 2021 since the decree holder had passed away in January, 2007.

8. Counsel for the respondents on the other hand contends that the instant writ petition is not maintainable since the claim raised by the petitioner herein is for deemed date notional promotion and for consequential benefits in terms of the judgment and decree dated 18.04.2014. He contends that as the claim of the petitioner about the said seniority already stands adjudicated upon by the Executing Court and the same having been declined, the instant writ petition is not maintainable. He submits that even in the instant writ petition, the petitioner has not challenged the order passed by the Executing Court dated 24.07.2019, hence, legality or validity of the said order cannot be gone into. Objection is also taken to the plea raised by the petitioner as regards his entitlement to claim the benefit, however, this Court would refrain from entering into the said controversy since *prima facie* this Court finds that once the specific claim for the aforesaid benefit has been considered by the Executing Court, in execution of the judgment and decree dated 18.04.2014, and the same having been declined, the instant writ petition cannot be instituted for seeking the same relief which has been declined to him. The challenge, if any, is in the form of an appropriate appeal under law. The said order not

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being a subject matter of challenge in the present proceedings or before any other competent Court of law, hence, the merits of the said order are not being examined lest it may prejudice the parties.

9. The present writ petition is accordingly dismissed on the grounds of being not maintainable, but with liberty to the petitioner to take recourse to an appropriate alternative remedy as per law, if so advised. Needless to mention that in the event of the petitioner approaching a competent Court of law for the said benefit, the period spent in pursuing the instant writ petition shall be taken into consideration in terms of Section 14 of the Limitation Act for condoning the delay.

AUGUST 06, 2025
Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No